againſt him, or why execution ſhould not be awarded, if he ſay nothing, it ſhall not be inquired whether he can ſpeak or not, but he ſhall have preſent judgment, or execution ii. *Page* 314, 315

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Where a wrong perſon brings an appeal, *auterfoits acquit* is no plea, neither is it a bar to the *king*, but he may be indicted *nient obſtante* that acquittal; and if right heir bring a new appeal, and be nonſuit, he may be arraigned on that appeal at *king*'s ſuit ii. 249

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Truſt.

Vide Forfeiture.

Turn.

Vide Sheriff.

Venire facias.

Vide Trial.

Venue.

Vide Trial.

Verdict.

ON indictment of treaſon *in adhering to king's enemies*, what jury ſhall inquire of 164

In

In all caſes of infancy, inſanity, &c. if one uncapable to commit a felony be indicted by the grand inqueſt, and thereon arraigned, petit jury may either find him *not guilty*, or find the matter ſpecially, and how, and thereon court gives judgment of acquittal *Page* 28 ii. 303

But if one in ſuch caſe be arraigned on indictment of murder or manſlaughter by coroner's inqueſt, there if party committed the fact, regularly the matter ought to be ſpecially found, becauſe if the jury find him *not guilty*, they muſt inquire how party came by his death, and how in that caſe they muſt find ib

But if he be firſt arraigned, and acquitted on the indictment by the grand inqueſt, and found *not guilty*, he may plead that acquittal on his arraignment on the coroner's inqueſt, and that will diſcharge him, and petit jury ſhall inquire farther how he came by his death 39

If priſoner indicted of murder or manſlaughter by grand inqueſt be acquitted by petit jury, they ſay ſo and no more, and only inquire of the flight; but if acquitted on pleading to coroner's inqueſt, petit jury alſo find, who killed the party, if they do not know, how in that caſe they find ii. 64, 65, 300, 301, 304, 305

If indictment be of murder or manſlaughter, and on trial it appear to jury to be involuntary, (as *per infortunium*, or *ſe defendendo*) jury ought to find the ſpecial matter, and conclude, *Et ſic per infortunium*, &c. and not generally, that it was *per infortunium*, &c. for on the ſpecial matter found court may give judgment againſt concluſion of verdict 471, 476, 477. ii. 302

If jury find him *not guilty*, they muſt inquire, whether he fled; and if they found he did fly, they muſt inquire of his goods and chattels, which is an inqueſt of office and traverſable *Page* 362, 493. ii. 301

Where one of full age ſhall be found guilty of burglary, and an infant, who was principally concerned in it, *not guilty* 556

Baron ſhall be found guilty, where *feme* in his preſence, and by his coercion commits burglary, or larciny, but ſhe ſhall be acquitted 45, 516, 556

If indictment compriſes burglary and felony, priſoner may be acquitted of burglary, and convicted of felony within clergy, or he may be acquitted of the felony; but *quære*, whether he can in that caſe be convicted of burglary 559, 560. ii. 302

Where burglary felony, and felony on 5 & 6 *E* 6. are joined in one indictment, priſoner may be acquitted of one, and convicted of the other two 560

If he be found guilty of burglary, and not of ſtealing, he may be convicted of burglary; and if acquitted of burglary, he may be convict of felony within 5 & 6 *E*. 6. and if acquitted thereof, he may be convict of larciny 561

If *A.* kills *B.* upon aſſault made on him in executing proceſs, or in his own defenſe, in the highway, or in defenſe of his houſe againſt perſons come to rob him, on *not guilty* pleaded, he ought to be acquitted ii. 158, 303

In treaſon or felony, if any *eſchete* or forfeiture of land be conceived in the caſe, petit jury ought to find true time of offenſe committed 361. ii. 179, 291

In petit treaſon priſoner may be acquitted thereof, and be convict of murder or manſlaughter ii. 184

Where there was once a writ [of exigent], and record ſince loſt, on circumſtances the jury may find

find the record, tho not ſhewn in evidence ii. *Page* 207
Where two indictments for ſame fact; one of murder, the other on 1 *Jac. of ſtabbing*; how jury to find 468. ii. 239, 240
If dureſs and compulſion will excuſe the priſoner, jury on general iſſue ought to find accordingly ii. 258, 259
If *A.* be indicted for a robbery or murder in wrong county, he ought to be acquitted, but variance between indictment and evidence in the vill immaterial ii. 291
If verdict be given by miſtake or partiality, jury may rectify it before recorded, or by advice of court go together again, and reconſider it ii. 299, 300
If recorded, they cannot retract or alter it ii. 300
In felony or treaſon no privy verdict can be given ib
If one be indicted *de morte cujuſdam ignoti*, jury ſhall be charged to tell his name, if they can ib
Where priſoner was acquitted of robbery, court antiently compelled jury to preſent who did it, but now *contra* ii. 300, 301
If coroner's inqueſt *ſuper viſum corporis* preſent a *fugam fecit*, and party be arraigned, and plead to that indictment, jury not charged to inquire of the flight, and why ii. 301
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One indicted of robbery may be found guilty of felony, and not robbery ii. 302
o where indictment charges the larciny to be *clam & ſecretè a perſonâ* ib
One indicted on 1 *Jac. of ſtabbing contra formam ſtat.* may be acquitted on the *act*, and convicted of manſlaughter ib
One indicted of grand larciny may be convicted of petit larciny ii. *Page* 302
One indicted of murder may be convicted of manſlaughter ib
Where coroner's inqueſt found that it was *per infortunium*, and jury found him generally *not guilty*, tho fact appeared to be *infortunium*, verdict of *not guilty* recorded ii. 303
If coroner's inqueſt find not the ſpecial matter, but murder or manſlaughter, and priſoner is arraigned on it, and pleads *not guilty*, and on evidence it appears that the priſoner killed the man, but not feloniouſly, in this caſe jury cannot find a general *not guilty*, but muſt find that the priſoner did it, and the manner how, and this to be entered of record, as in caſe of a verdict *ſe defendendo* ii. 304, 305
Many ſpecial verdicts have been found, as on 1 *Jac. of ſtabbing* ſo on the point, *whether murder or not*; but it is difficult to find them ſo that judgment be given for murder, and why ii. 305
Rarely on any ſpecial verdict, where queſtion *murder or manſlaughter*, judgment given for murder, but commonly manſlaughter ib
Felony laid as required by *act* ouſting clergy, but evidence comes not up to it, where priſoner ſhall be convicted of ſimple felony ii. 336
Where verdict avoided for miſdemeanors of jury, &c. the ſpecial matter being indorſed on the poſtea, vide *petit jury* ſub titulo Jury.

Vide Evidence.

Verge.

For commiſſions of oyer *and* terminer *for the verge, the extent thereof, and manner of trials within the ſame*, vide Court.

Viſne.

Uiſne. Vide Trial.

Uſe. Vide Forfeiture, Statutes in general.

Waifs.

IF a felon waive the goods ſtolen without any purſuit after him, thoſe goods are not in law *bona waviata*, nor forfeit to the *king* or lord; but if he waive them on purſuit, then they are *bona waviata*, and forfeit to the *king* or lord *Page* 541

This forfeiture is not like a ſtray, where, tho the lord may ſeize, yet owner may retake them, within year and day; but here true owner cannot ſeize his own goods, tho on freſh ſuit within year and day ib

How a man ſhall obtain reſtitution of goods waived ib

Wales.

Before 26 *H.* 8. no treaſon or felony committed in *Wales* was inquirable or triable before juſtices of *oyer* or *terminer*, or in *B. R.* in *England*, but before juſtices aſſigned by the *king* in thoſe counties of *Wales*, where fact committed 156

But by the ſame *act*, what offenſes and acceſſaries of the ſame, felonioufly done in *Wales*, or any lordſhip marcher may be inquired of, and tried before juſtices of gaol-delivery and the peace, in next adjacent county 156, 157. ii. 38

This *act* confirmed by the great ſtatute of *Wales* 34 & 35 *H.* 8. which ſettles the grand ſeſſions and juſtices thereof 157

As to offenſes mentioned in 26 *H.* 8. juſtices of gaol-delivery in the adjacent counties, and what counties theſe are, had thereby a concurrent juriſdiction with the juſtices of grand ſeſſions ib

But whether 26 *H.* 8. extended to treaſon for compaſſing *king*'s death, or levying war, or whether ſame remained only triable by juſtices of grand ſeſſions, doubtful; but now 26 *H.* 8. ſtands repealed by 1 & 2 *P.* & *M.* as to trial of treaſons *Page* 157, 282. ii. 38

In other criminal cauſes not capital, as in indictments of riots, they may be removed into *B. R.* by *certiorari*; and when iſſue is joined they may be tried in next *Engliſh county* ib

Whether a *certiorari* lies into *Wales* on indictment of treaſon or felony 158

It ſeems it may iſſue for ſpecial, and what purpoſes, but not as a trial of fact, but it ſhall be ſent down by *mittimus* according to 6 *H.* 8. ib

Wales withing realm of *England*, and therefore not within 35 *H.* 8. for trial of foreign treaſons ib

War.

Jus gladii, both civil and military, and ſo is power of making peace, *inter jura ſummi imperii*; none can levy war here without the *king*'s commiſſion 130, 159

War ſucceeds beſt when concerted with the parliament 159

What ſhall be ſaid enemies of the *king*, ſubjects not properly *hoſtes*, but rebels or traitors ib

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Theſe

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If *de facto* there be a war between princes, they and their ſubjects are *hoſtes* to each other ib
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Were, or Weregild.

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Before 1 *Jac.* it was not felony, becauſe it wanted a trial [how far 1 *Jac.* derogated from by 9 *Geo.* 2. vide *act*]. 429
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[By 7 *W.* 3. *no perſon ſhall be indicted, tried, or attainted of treaſon, but on the oaths of two lawful witneſſes, which two witneſſes muſt be to ſame treaſon, tho not neceſſary that they ſhould both be to ſame overt-act*; in notis] 341

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FINIS.

GOVERNMENT

CORRIGENDA in the TABLE.

In titulo Allegiance for *fidelitas regia*, read *fidelitas legea*. From Ambaſſador refer to Treaſon. From Amendment to Record. In the references under Appeal, inſtead of Vide Proceſs, make it Vide Outlawry. *In titulo* Arreſt, after theſe words, *For what end conſtable or any other during affray may break open doors*, inſert *but not after—— unleſs*, &c. Under Burglary dele *clergy allowed to one attaint*, which is inſerted under its proper head Clergy. For the form and *analyſis* of caption of indictment on return of *certiorari*, refer from Certiorari to Indictment. From Certiorari refer to Plea. Refer from Coverture to Principal and Acceſſary. Under Jeſuit *dele* reference to Treaſon.

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